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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,713	02/17/2000	Wilfried Jud		6931

7590 12/19/2001

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EXAMINER

JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 12/19/2001

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/505,713

Applicant(s)

JUD ET AL.

Examiner

Monique R Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-19, 21, 22, 27-29 and 32-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-19, 21, 22, 27-29 and 32-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

1. The amendment filed 9/28/01 has been entered. New claims 36 and 37 been added.

Claims 15-19, 21-22, 27-29, and 32-37 are pending in the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections

3. Claims 15-19, 21-22, 27-29, and 32-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Breitler et al (USPN 5,589,275.) Breitler et al teach a composite material containing a metal layer on both sides of which is a plastic layer wherein the metal layer is a metal foil, preferably aluminum or aluminum alloy with an aluminum purity of most preferably 99.5% or higher, including AA8014, AA8079 or AA8101, having a thickness of 40-70um; wherein the plastic layer(s) is a polyamide-based thermoplastic containing polyamide with a thickness of 20-50um (Abstract; Col. 3, lines 1-22 and lines 66-67.) Breitler et al teach that the plastic layers on both sides of the metal layer include composites of two or more films or layers wherein the polyamide-based thermoplastic layers may additionally and independent of each other be provided with an outer lying sealable layer and/or barrier layer of thermoplastics, such as a polypropylene sealable layer, wherein the sealable layers are sealable films deposited via adhesives, applied by lamination or lamination coating wherein the thickness of the sealable films may be 6-100um thick and furthermore, one or more layers, e.g. 1 to 10um thick, of a sealing layer coating may be deposited on the plastic composite (Col. 4, lines 1-38.) Breitler et al further teach that a single or double-sided sealable composite may be obtained by single or double-sided coextrusion of the plastic layers, wherein in that connection, it is useful for the

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plastic layers to contain or comprise a polyamide-based thermoplastic and at least one polyamide layer to feature a sealing layer on at least one side, i.e. each layer of polyamide thermoplastic may be covered with a sealable layer on one side or both sides, independent of the other layers (Col. 4, lines 36-45.) Breiter et al teach that to join the aluminum foil or to bond the plastic films or individual layers to each other, an adhesive coating and/or bonding primer are usually employed wherein a suitable adhesive is a maleic-anhydride modified polypropylene, and suitable bonding agents are epoxy or urethanes, wherein the bonding agent or primer may be for example applied in amounts of 0.1-10g/m², usefully 0.8-6g/m² or the adhesive layer has a thickness of 1-12um or applied in an amount of 0.1-14 g/m² (Col. 5, lines 3-47.) Breitler et al teach a number of layer arrangements including the layer structure as instantly claimed wherein the plastic films may be formed by warm coating or coextrusion and may be subjected to stretch-drawing, to produce a composite film useful in manufacturing packaging and parts of packaging such as packaging containers, base parts, blister packs, for storing or packaging foodstuffs or pharmaceutical products (Col. 5, line 48-Col. 6, line 23; Col. 6, line 65-Col. 7, line 33.)

4. Claims 15-19, 21-22, 27-29, and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breitler et al in view of *Ullmann's Encyclopedia of Industrial Chemistry*, vol. A11. The teachings of Breitler et al are discussed above. Breitler et al teach a composite film containing a metal foil, particularly aluminum, with plastic films on both sides thereof wherein the plastic films may be multilayer films formed from various layer structures and specifically teach the general layer structure as instantly claimed with layer thickness within or comprising the instantly claimed ranges utilizing optional adhesive, bonding and/or primer layers to bond plastic layers to each other and/or to the metal foil as instantly claimed wherein the plastic films

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may be extruded, coextruded, or laminated via adhesive. Though Breitler et al disclose all of the layers, layer materials and layer thickness as instantly claimed, Breitler et al does not specifically limit the invention to the specific composite film combination as instantly claimed, however, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize any of the structures disclosed by Breitler et al selecting from the disclosed materials taught by Breitler et al based on the desired film properties for a particular end use, and further to utilize routine experimentation to determine the optimum thickness of the individual layers given that layer thickness is a result-effective variable affecting the barrier, mechanical, adhesion and sealing properties of the resulting composite based on the desired end use of the packaging composite taught by Breitler et al. Further, it would have been obvious to one having ordinary skill in the art to determine the appropriate laminating method, such as extrusion laminating, lamination coating, coextrusion or laminating via adhesives as taught by Breitler et al, to produce the multilayer plastic films based on the individual layer materials to be laminated wherein laminating via adhesives, extrusion coating and coextrusion are conventional methods of producing composite plastic films as evidenced by Ullman's which specifically teach that coextrusion is unique in that it can produce very thin multilayer films and that polyamide films are mainly employed in composite structures produced by lamination, extrusion coating, or coextrusion with sealing or barrier resins (6.7 Polyamide, page 105.) Ullman's also teach that composite films are conventionally utilized in the packaging industry to produce various packaging structures such as bags, sacks, and blister or cushion packs, or thermoformed structures such as containers from thicker films, wherein the combination of plastic films with

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aluminum foil produces semirigid composites with exceptionally low permeability to gases, water vapor and odors (6.13 Composite Films, 7. Summary of Uses, pages 108-109.)

Response to Arguments

5. Applicant's arguments filed 9/28/01 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 703-308-0428.

The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 703-308-2367. The fax phone numbers for the

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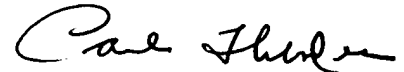
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organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



mrj
December 17, 2001



Paul Thibodeau
Supervisory Patent Examiner
Technology Center 1700